U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 39798133

Date: SEP. 08, 2025

Appeal of Service Center Operations (SCOPS) Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, who describes his profession as a senior distinguished engineer, researcher and developer in the field of biomedical textiles and materials, seeks classification as an individual of extraordinary ability in the sciences. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

Service Center Operations (SCOPS) denied the petition, concluding that the record did not establish that the Petitioner satisfied the initial evidence requirements for this classification by demonstrating his receipt of a major, internationally recognized award or by meeting at least three of the ten evidentiary criteria at 8 C.F.R. § 204.5(h)(3). The matter is now before us on appeal. 8 C.F.R. § 103.3.

The Petitioner bears the burden of proof to demonstrate eligibility by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). We review the questions in this matter de novo. *Matter of Christo's, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015). Upon de novo review, we will dismiss the appeal.

I. LAW

Section 203(b)(1)(A) of the Act makes visas available to immigrants with extraordinary ability if:

> (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
>
> (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and

(iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner may demonstrate international recognition of their achievements in the field through a one-time achievement (that is, a major, internationally recognized award). Absent such an achievement, the petitioner must provide sufficient qualifying documentation demonstrating that they meet at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i) – (x).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); *see also Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

II. ANALYSIS

The Petitioner provided evidence to establish his eligibility under four of the ten regulatory criteria at 8 C.F.R. § 204.5(h)(3)(ii), (v), (viii), and (ix). SCOPS concluded he met the criteria at 8 C.F.R. § 204.5(h)(3), (viii), (ix). We will not disturb these findings. On appeal, the Petitioner reasserts that he meets the criteria at 8 C.F.R. § 204.5(h)(3) (ii), and (v).

A. Evidentiary Criteria

1. Memberships in Associations Requiring Outstanding Achievements

This criterion requires "[d]ocumentation of the alien's membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields." 8 C.F.R. § 204.5(h)(3)(ii).

The Petitioner submitted evidence of his membership in The [redacted] as an Associate Chartered Member. To support his assertion that this was a qualifying association, the Petitioner submitted informational materials including bylaws outlining the requirements for members under his category of "associateship." To hold an associateship, members must qualify under one of four possible routes: pass the prescribed ATI examinations, hold a degree or other qualification accredited for ATI, hold an appropriate degree or equivalent qualification in a relevant discipline, with broad general knowledge of textiles in related areas, i.e. upstream and downstream from specialism, demonstrate specialist textile knowledge comparable to degree level, with broad general knowledge of textiles in related areas, i.e. upstream and downstream from specialism. Associateship also requires a period of professional experience which is also divided into four categories including two, five or

ten years of relevant experience after graduation. Among other requirements, applicants must also complete an application form, pay a fee and provide references to support their application. They may also be required to attend an interview.

SCOPS found insufficient evidence that the association required outstanding achievements or used recognized national or international experts to determine which individuals qualified for membership. Specifically, SCOPS noted that requirements that included employment or activity in a given field, minimum education, experience, or achievement, recommendations by colleagues or current members, or payment of dues do not satisfy this criterion since these requirements do not constitute outstanding achievements. SCOPS considered the letter from the Senior Membership Coordinator, E-T-[1] of The [redacted] who attested to additional qualifications of consideration by the selection committee. However, E-T-'s assertions were not supported by the evidence in the record, and consequently E-T-'s letter was given little weight. Where an opinion is not in accord with other information or is in any way questionable, U. S. Citizenship and Immigration Services is not required to accept that evidence or may give less weight to it. *Matter of Caron International*, 19 I&N Dec. 791 (Comm. 1988); *Matter of Sea, Inc.*, 19 I&N Dec. 817 (Comm. 1988). For example, although E-T- claimed that the association required evidence of outstanding and impactful personal contribution to the textile industry, this "qualification" was not reflected in the informational materials the Petitioner submitted. Under USCIS policy, the level of membership afforded to the person must show that in order to obtain that level of membership, recognized national or international experts judged the person as having attained outstanding achievements in the field for which classification is sought. 6 *USCIS Policy Manual* F.2(B)(1), Criterion 2. Therefore, SCOPS concluded that the evidence did not establish that the Beneficiary was a member of an association in the field for which classification is sought, which required outstanding achievements of their members, as judged by recognized national or international experts in their disciplines.

On appeal, the Petitioner argues that SCOPS abused its discretion by unilaterally implementing novel evidentiary requirements and applying a standard not supported by the plain language of 8 C.F.R. § 204.5(i)(3)(i). The Petitioner, however, has misstated the section of the regulation upon which they propose to seek qualification of the Beneficiary. We note that the regulation at 8 C.F.R. § 204.5(i)(3)(i) pertains to outstanding professors and researchers, while the Petitioner previously indicated the Beneficiary was seeking benefits under Section 203(b)(1)(A) of the Act which makes visas available to immigrants with extraordinary ability. The Petitioner otherwise disagrees with SCOPS's assessment that the bylaws for the association do not indicate "the exact criteria utilized by the selection committee to select a chartered member." They assert that SCOPS placed an unreasonable burden on the Petitioner because many membership organizations may choose to keep their internal decision-making for different levels of membership private. The Petitioner asserts that there are multiple layers of membership, and "[w]hile the bylaws describe the general criteria for consideration as a higher-level membership as a Chartered Member, this does not mean that it includes all internal considerations that are formally applied by the reviewing membership committee." The Petitioner points to the letter from E-T- which states that the Chartered Member designation is a prestigious professional qualification within the textile industry, the selection committee is comprised of highly accomplished and well-established Chartered Members from well-recognized industrial, academic and research organizations, Chartered Members represent the top 5-10% of professionals in

[1] We use initials to protect the privacy of individuals.

their field and annually only about 3-5 qualified individuals with extraordinary accomplishments are selected for this award. While we acknowledge E-T-'s letter, the official bylaws do not support her assertions. Rather, the bylaws indicate the membership requirements, and such requirements do not include a showing of extraordinary ability in order to be a member. *Aravamuthan v. Jaddou*, No. 3:23-CV-01412-N, 2025 WL 1708126, at *4 (N.D. Tex. June 17, 2025) (upholding plaintiff did not show that outstanding achievements are required of its members as a minimum requirement for membership); *see also*, *Braga v. Poulos*, No. CV 06-5105 SJO FMOX, 2007 WL 9229758, at *5 (C.D. Cal. July 6, 2007), *aff'd*, 317 F. App'x 680 (9th Cir. 2009) (finding plaintiff did not show the memberships with organizations were limited to those who have outstanding achievements in the field). Thus, while some Chartered Members may possess an extraordinary ability, the association may also accept those who do not, as long as they meet the basic requirements. On appeal, the Petitioner additionally submits published biographies, articles and LinkedIn profiles of various Chartered Members of The [redacted] to "illustrate the prestigious nature of selection as a Chartered Member." Because the Petitioner was put on notice and given a reasonable opportunity to provide this evidence, we will not consider it for the first time on appeal. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time); *Matter of Soriano*, 19 I&N Dec. 764, 766 (BIA 1988) (declining to consider new evidence submitted on appeal because "petitioner was put on notice of the required evidence and given a reasonable opportunity to provide it for the record before the denial").

The Petitioner has not demonstrated that the association to which the Beneficiary belongs requires outstanding achievements from their members as judged by recognized national or international experts. We will therefore affirm SCOPS's finding regarding this criterion.

2. Original Contributions of Major Significance

This criterion requires "[e]vidence of the alien's original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field." 8 C.F.R. § 204.5(h)(3)(v).

In order to satisfy the regulation at 8 C.F.R. § 204.5(h)(3)(v), USCIS determines whether the person has made original contributions in the field.[2] USCIS then determines whether the original contributions are of major significance to the field. *See generally* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5. Examples of relevant evidence include, but are not limited to: published materials about the significance of the person's original work; testimonials, letters, and affidavits about the persons original work; documentation that the person's original work was cited at a level indicative of major significance in the field; and patents or licenses deriving from the person's work or evidence of commercial use of the person's work.[3]

To meet this criterion, the Petitioner submitted a variety of evidence, including: a scholarly article, letters of recommendation and support; conference materials; a Google Scholar profile; and information regarding his patents. SCOPS noted that the patents and the scholarly article established how the Beneficiary has been credited with original scientific and scholarly contribution in the field of biomedical textiles and materials. But SCOPS observed that a patent was not necessarily evidence

[2] *See generally* 6 USCIS Policy Manual F.2(B)(1), https://www.uscis.gov/policymanual.
[3] *Id.*

of whether the greater field considered the Beneficiary's contribution to be of major significance. Moreover, although the issuance of a patent did verify the originality of a device or process, the significance of an invention is not evaluated during the patent application process. SCOPS cautioned that the significance of the innovation must be determined by USCIS on a case-by-case basis especially where the United States Patent and Trademark Office, according to its statistics, has approved over three hundred thousand patents per year since 2013. Thus, the mere possession of a patent does not speak to the invention's significance in the field; and the publication of scholarly work does not automatically denote the significance of the work in the greater field.

SCOPS acknowledged the reference letters from M-K-, J-L-, R-M-, A-J- and Y-K- the Petitioner initially provided in support of the major significance of the Beneficiary's contributions. SCOPS noted that most of the references shared professional experience with the Beneficiary, or they were employed by the Petitioner, leading SCOPS to "question their ability to remain independent and objective." We note that SCOPS may consider the relationship between a beneficiary and a witness when evaluating the significance of a witness' statements. *Id.* SCOPS therefore determined that there were credibility concerns due to the shared relationships the Petitioner had with some of the references, when considering their ability to remain objective and independent about the Beneficiary's work. In reviewing the letters, SCOPS determined that the authors opined that the Beneficiary's work was novel but that they failed to illustrate how any one of the patents or the scholarly article are considered to be of major significance in the field of biomedical textiles and materials. Similarly, being credited with a new procedure or device, while furthering the field of study, does not automatically mean the contribution itself is considered to be of major significance. Moreover, the authors largely discussed the Beneficiary's work for the Petitioner and the value of that work; but contributions of value to one's own employer are not automatically considered to be of major significance in the greater field. Turning again to the authors, SCOPS determined that their statements were not corroborated by the documentary evidence in the record, because the evidence consisted of various conference materials and a copy of the Beneficiary's Google Scholar profile page. Regarding the Google Scholar profile page, SCOPS reasoned that it remained unclear how these citations were considered to be markers of major significance because the record failed to support how the citation counts associated with the Beneficiary's work were considered to be "significant attention or commercialization." As for the conference participation, SCOPS determined that such opportunities were pursued by most individuals across all professional fields and the Beneficiary's participation did little to establish how any one of his contributions were considered to be of major significance. Thus, the record failed to corroborate the claims of the initial reference letter authors regarding the significance of the Beneficiary's contributions.

After SCOPS issued a request for evidence, the Petitioner submitted additional reference letters from J-J- and D-B-. SCOPS acknowledged that both authors suggested that the Beneficiary's contributions addressed challenges in the field and lead to various biomedical device improvements (i.e. [redacted], but the authors failed to sufficiently illustrate how any one of the Beneficiary's contributions were considered to be of major significance in the field. Evidence that the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field. *Id.* However, neither J-J- nor D-B- offered probative details supporting how any one of the patented products had "attracted significant attention or commercialization." Similarly, with regards to scholarly articles, neither author offered probative details supporting how the Beneficiary's article enjoyed a high citation rate

relative to others nor how the article was surrounded by "widespread commentary on its importance." Published research that has provoked widespread commentary on its importance from others working in the field, and documentation that it has been highly cited relative to others' work in that field, may be probative of the significance of the person's contributions to the field of endeavor. *Id.*

Finally, SCOPS acknowledged the materials published by the Petitioner highlighting the significance of the Beneficiary's work as well as one other published material from businesswire.com noting the development of the [redacted] We note that the article was published by businesswire.com on [redacted] 2025. However, the Petitioner filed the petition in February 2025; therefore, SCOPS was not required to accept this evidence. The Petitioner must establish all eligibility requirements for the immigration benefit have been satisfied from the time filing and continuing through adjudication. *See* 8 C.F.R. § 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Reg'l Comm'r 1971). Ultimately, SCOPS gave this article less weight because generally, published materials from a beneficiary's own employer are not sufficient evidence of the major significance of the contributions in the greater field. SCOPS acknowledged that the businesswire.com article was intended to bolster the reference letters, and that the Beneficiary's work was deemed to be novel but nonetheless questioned how such a development was already considered to be of major significance in the greater field of science. Further, SCOPS questioned the major significance of the product that appeared to have been released about a month prior; and highlighted that the material from businesswire.com indicated that it was still in clinical trials. And the businesswire.com article largely lacked context for how the Beneficiary's specific contributions were already considered to be of major significance in the field. Thus, SCOPS concluded that one article from businesswire.com was insufficient evidence of "significant attention or commercialization." *See* 6 *USCIS Policy Manual* F.2(B)(1), Criterion 5 ("[E]vidence that the person developed a patented technology that has attracted significant attention or commercialization may establish the significance of the person's original contribution to the field.") As such, SCOPS found that the testimony of the authors was not corroborated by other evidence in the record. Therefore, the Petitioner did not establish that the Beneficiary had original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

On appeal, the Petitioner submits documents that they previously submitted including evidence of the patents filed with the United States Patent and Trade Office. In addition, for the first time on appeal, the Petitioner submits webpage printouts dated July 2025 from *Justia* showing the inventions, patents, and patent applications listed under the Beneficiary's name. We will not consider this evidence for the first time on appeal because, the Petitioner was put on notice and given a reasonable opportunity to provide this evidence. *See* 8 C.F.R. § 103.2(b)(11) (requiring all requested evidence be submitted together at one time).

On appeal, the Petitioner argues that the Beneficiary meets this criterion because of his patents, his "role as a presenter and lecturer at top international conferences in the field," evidence of his strong patent citation index and the "highly detailed and credible letters from five (5) prominent independent experts in the field of endeavor." The Petitioner asserts that SCOPS overlooked the significant and widespread impact of the Beneficiary's original scientific and scholarly contributions to the treatment of cardiovascular disease – the leading cause of death in the U.S. and globally." They aver that the Beneficiary is responsible for developing novel biomedical textile technologies used in commercially available artificial heart valves, such as the [redacted] And they assert that the

Beneficiary's patented designs have been of major significance to the medical device industry and have revolutionized the treatment of heart valve repair and replacement through the implementation of biomedical textiles and materials. Upon de novo review, we will dismiss this appeal.

We acknowledge the patents that are credited to the Beneficiary. However, although evidence that an individual's work has been patented may potentially demonstrate the work's originality, it will not necessarily establish that the work is of major significance in the field, without more. *See* 6 USCIS Policy Manual F.2(B)(1*), supra.* In relevant part, evidence that may establish major significance to the field may include, for example, evidence that the individual developed a patented technology that has attracted significant attention or commercialization. *See id.* We note that because of his employment, the Beneficiary's inventions belong to the Petitioner, and the record does not establish that any other individual or entity has licensed the Beneficiary's inventions from the Petitioner. The right to use these patents by others could indicate the extent to which the patents may have had significance in the field of life sciences. However, the Beneficiary's ownership of the patent has prevented non-patent holders, licensees, clients, and customers from utilizing the invention. Therefore, without such evidence, the record does not establish how the Beneficiary's patents are evidence that his original contributions have attracted significant attention or commercialization that demonstrates major significance in the field of life sciences, as contemplated by 8 C.F.R. § 204.5(h)(3)(v).

Detailed letters from experts in the field explaining the nature and significance of an individual's contribution may provide context for evaluating whether an original contribution is of major significance to the field, particularly when the record includes documentation corroborating the claimed significance. *See generally* 6 *USCIS Policy Manual* F.2(B)(1). Regarding the reference letters, we determine that although they praise the Beneficiary's work, they are general in nature and lack supporting evidence that may corroborate the author's observations and opinions. For example, J-L- wrote, "[The Beneficiary's] revolutionary designs have been incorporated into [the Petitioner's] transcatheter aortic valve replacement product pipeline and have resulted in the publication of several US and international patents." And according to A-J-, "[The Beneficiary] developed a radially collapsible and stretchable valve outer covering for the [redacted]. . . . Overall, his work on this life-saving technology has made [redacted] a much more viable option for patients even in the presence of complications." However, while the Beneficiary has clearly made contributions to his employer, the Petitioner has not demonstrated that these contributions have been adopted or recognized broadly as advancing the field, though they remain a "viable option." Thus, we determined that the letters of recommendation and support do not support this criterion.

On appeal, the Petitioner argues that the Beneficiary's 120 "forward patent citations" shows that he has made significant original contributions to the field of endeavor. The Petitioner asserts that a forward patent citation is a "strong indicator of patent value and the influence and relevance of the original patent on subsequent innovations within the same field." However, a forward patent citation is not conclusive evidence of technological influence or commercial relevance. For example, a forward patent citation may result from acknowledging a prior patent, thereby avoiding infringement, rather than a true manifestation of innovation. Here, the Petitioner has not demonstrated that the Beneficiary's forward patent citations were only an indication of significant original contributions. The Petitioner points to the Beneficiary's participation as a lecturer and presenter at major conferences and events. They assert that the Beneficiary was invited to present his expert insights and original

work "at international, professional conferences dedicated to innovation in heart valve technologies" and that originality was a "critical component for presenting at notable industry conferences." As a recent example, the Petitioner points to the Beneficiary's participation in the 2024 [redacted] held in [redacted], Germany. However, mere participation in a conference is insufficient to meet this criterion. Typically, presenting at a conference is a routine professional activity, and here, the Beneficiary was among a group of presenters rather than a keynote speaker. *Kazarian v. U.S. Citizenship & Immigr. Servs.*, 580 F.3d 1030 (9th Cir. 2009), *aff'd in part,* 596 F.3d 1115 (9th Cir. 2010) (finding publications and presentations alone are not sufficient to demonstrate major significance). And regarding the Beneficiary's scholarly article, the Petitioner has not sufficiently shown that the citation for his published article is commensurate with contributions of major significance. Specifically, the Petitioner did not demonstrate that these citations were unusually high or how they compared to other articles in the field as having been majorly significant. Consequently, the Petitioner does not meet this criterion.

B. Final Merits Decision

The Petitioner has shown that the Beneficiary met at least two initial evidentiary criteria, falling short of the three initial evidentiary criteria required. Congress set a very high benchmark for aliens of extraordinary ability by requiring the petitioner demonstrate "sustained national or international acclaim" and present "extensive documentation" to show his or her achievements have been recognized in the field. Section 203(b)(1)(A)(i) of the Act. Here, because the Petitioner has not satisfied the threshold "initial evidence" requirements at 8 C.F.R. § 204.5(h)(3), we cannot conclude that the Beneficiary is an alien of extraordinary ability and need not further analyze the merits under the statute. *See Kazarian*, 596 F.3d at 1119-20; *see also Nagaiah v. Allen*, -- F.Supp.3d ---, 2025 WL 1508028, at *10 (E.D. Pa. May 27, 2025) (finding the regulation "establishes a necessary, not sufficient, evidentiary requirement for a petitioner who seeks an extraordinary ability visa."). Therefore, we decline to reach and hereby reserve any final merits determination in this matter. *See INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (per curiam) (holding that agencies are not required to make "purely advisory findings" on issues that are unnecessary to the ultimate decision).

For the reasons discussed above, the Petitioner has not demonstrated his eligibility as an individual of extraordinary ability.

ORDER: The appeal is dismissed.

NOTICE: This constitutes the final decision in this matter. The filing of a motion will not postpone the effect of the decision. 8 C.F.R. § 103.5(a)(1)(iv). Aliens who are not lawfully present, or otherwise inadmissible or deportable, may be subject to the commencement of removal proceedings under section 240 of the Act through the issuance of a Form I-862, Notice to Appear. Those proceedings may result in their removal from the United States and possible ineligibility for future visas or other immigration benefits.